

Amend Section 8878 of the Revenue and Taxation Code to conform relief of interest provisions in the Use Fuel Tax Law with the other tax and fee laws administered by the Board.

Source: Legislative Division

Under existing Sales and Use Tax Law, Section 6593 provides that if the Board finds that a person's failure to make a timely return or payment was due to a disaster, the person may be relieved of interest provided, in part, by Section 6459. Section 6459 provides that the Board for good cause may extend for not to exceed one month the time for making any return or paying any amount required to be paid. However, any person to whom an extension is granted is required to pay interest in addition to the tax from the date on which the tax would have been due without the extension until the date of payment. Several other tax and fee programs administered by the Board contain identical provisions to Sales and Use Tax Law Section 6593.

Section 8878 of the Use Fuel Tax Law contains similar provisions to Section 6593, except it does not reference Section 8754, which is similar to Sales and Use Tax Law Section 6459. It appears the reference to Section 8754 was inadvertently overlooked when Section 8878 of the Use Fuel Tax Law, along with similar sections in other tax and fee laws administered by the Board, were added to the Revenue and Taxation Code by AB 357 (Ch. 947, Stats. 1981).

This proposal would simply amend the Use Fuel Tax Law to allow the Board to relieve interest provided in Section 8754 where a person has failed to make a timely return or payment due to a disaster, which would be consistent with the Sales and Use Tax Law and other tax and fee laws administered by the Board.

Section 8878 of the Revenue and Taxation Code is amended to read:

8878. If the board finds that a person's failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 8754, 8760, 8803, and 8876.

Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.